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CANADA



# NATIONAL ENERGY BOARD

## REASONS FOR DECISION

In the Matter of Applications under  
The National Energy Board Act by

Foothills Pipe Lines (Alta.) Ltd.

For the Taking of  
Additional Lands



January 19, 1982



NATIONAL ENERGY BOARD  
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NATIONAL ENERGY BOARD

IN THE MATTER of two applications, both dated the 17th day of August, 1981, as amended, by Foothills Pipe Lines (Alta.) Ltd. for Authority to Take Additional Lands, required for the Construction, Maintenance and Operation of a Pipeline, pursuant to section 74 of the National Energy Board Act.

Northern Pipeline Agency Files No. 8258 and No. 8259.

Heard at the Town of Rocky Mountain House, in the Province of Alberta, on the 5th day of November, 1981.

BEFORE:

W.A. Scotland, Designated Officer  
Northern Pipeline Agency,

pursuant to the powers, duties and functions delegated to him by the National Energy Board in its Order No. NPO-1-78 dated the 27th day of July, 1978.

APPEARANCES:

John P. Petch	Representing Foothills (Alta.) Ltd.
Norman E. Hall	Representing Foothills (Alta.) Ltd.
Paul Jenson	Representing a group of Landowners
J. Stewart Fisher	Representing Unifarm and one Landowner, Bernard B. Bystrom
Joe Marshall	Representing Unifarm, Member Services
Charles Wood	Representing the Indian Association of Alberta
Martha Kostuch	Private citizen
Sandra Vavrek	Landowner
Alois C. Feys	Landowner
Bernard B. Bystrom	Landowner
Herman C. Korver	Representing Revrok Farms Ltd., Landowner
Donald F.W. Buck	Landowner
Harry Tensen	Landowner
Chester Sands	Landowner
K.E. & J.L. Rudd	Landowners
Eileen Northcott	Landowner
William R. Follis	Landowner
William C. Wales	Landowner
Kevin Harper	Occupant
L.G. Ganne	Representing the Northern Pipeline Agency



## BACKGROUND

The National Energy Board Act (NEB Act) provides, under section 73, that a pipeline company may, without the consent of the owner, take lands for right-of-way to a maximum breadth of sixty feet (18.288 m). Under section 74(1) of the NEB Act, a company may apply to the National Energy Board (the Board) for authority to take additional lands without the consent of the owner if such lands are required for the efficient construction, maintenance or operation of a pipeline or for constructing or taking any works or measures ordered by the Board.

The Northern Pipeline Act was enacted to establish the Northern Pipeline Agency (the Agency) to facilitate the planning and construction of a pipeline which has become known as the Alaska Highway Gas Pipeline (AHGP). Foothills Pipe Lines (Alta.) Ltd. [hereinafter referred to as "Foothills (Alta.)" or the "company"], a subsidiary of Foothills Pipe Lines (Yukon) Ltd., is the company which will own and operate the segments of the AHGP which are being constructed in Alberta.

Subsection 6(1) of the Northern Pipeline Act provides for the delegation of certain powers, duties and functions of the Board under the NEB Act to the Designated Officer of the Agency. The Board by its Order No. NPO-1-78(2) delegated to William Alexander Scotland, Designated Officer and Deputy Administrator of the Agency, its powers, duties and functions in respect of certain sections of the NEB Act including section 74 for the Canadian section of the AHGP. This hearing was conducted pursuant to those delegated powers.

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(1) See Appendix I.

(2) See Appendix II.

### THE APPLICATIONS

Foothills (Alta.) applied to the Board in two separate applications for authority to take additional lands along its proposed right-of-way within Zone 5<sup>(3)</sup> between kilometre posts 576.6 and 633.7.

Both applications would provide Foothills (Alta.) with a pipeline right-of-way and permanent working space of 33 metres (108.3 feet) in breadth. In addition, Foothills (Alta.), where required, is applying, in one of its applications, for 13 metres (42.7 feet) of temporary working space, and in the other, for 23 metres (75.5 feet) of temporary working space, to be located immediately adjacent to the aforementioned right-of-way and permanent working space.

Foothills (Alta.) classified the additional lands applied for into three categories of linear land use:

Schedule "A" lands, being additional right-of-way, on which Foothills (Alta.) may carry on pipeline construction, maintenance and operation, including ditching and installation of a pipeline.

Schedule "B" lands, being additional right-of-way, providing permanent working space adjacent to the sixty foot (18.288 metre) right-of-way, permitted under section 73 of the NEB Act. The permanent working space lies entirely within an existing right-of-way of NOVA, AN ALBERTA CORPORATION (NOVA). The activities Foothills (Alta.) may conduct on the permanent working space are the normal pipeline construction and maintenance activities limited generally to surface use. The permanent working space cannot be used for ditching or laying of pipe.

Schedule "C" lands, being temporary working space, which would be used only during construction of the pipeline.

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(3) Zone 5 is described in Annex II of Schedule I to the Northern Pipeline Act as the route from the Alberta-British Columbia Border to the point of bifurcation near Caroline, Alberta.

FOOTHILLS EVIDENCE

The two applications for additional lands relate to the 1983 construction phase of the Foothills (Alta.) pipeline and were heard together as one application.

Foothills (Alta.) filed, as "EXHIBIT NO. 45", a Policy Statement Regarding Bill C-60, an act to amend the National Energy Board Act.

The Designated Officer requested, for the purpose of clarification, that Foothills (Alta.) file an amendment to the aforesaid Policy Statement, which was subsequently filed, with the Agency, as "EXHIBIT NO. 45A".(4)

It was the intent of Foothills (Alta.) through its Policy Statement, as amended, to assure the owners that, firstly, there was no improper motive in proceeding with the applications far in advance of the anticipated construction date and, secondly, that they would be offered any benefits that would be derived from the subsequent passage of Bill C-60.

Foothills (Alta.) stated that it required the additional lands because the lands, sixty feet (18.288 metres) in breadth, which are permitted to be taken for the right-of-way of a pipeline under section 73 of the NEB Act, are insufficient to allow Foothills (Alta.) to efficiently construct, operate and maintain its 1,422 mm (56") diameter pipeline in accordance with accepted practices in the pipeline industry.

Foothills (Alta.) filed, as "EXHIBIT NO. 46", its Policy Statement regarding the width of right-of-way, including two diagrams showing the right-of-way configurations necessary for construction(5).

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(4) See Appendix III.

(5) See Figures 1 and 2.

Figure 1 shows a right-of-way 46 metres (150.91 feet) in width proposed to be used in areas where some grading will be required.

Figure 2 shows a right-of-way 56 metres (183.72 feet) in width proposed to be used in areas of rough terrain where a substantial amount of grading will be required.

#### 46 Metre Right-of-Way (Figure 1)

Foothills (Alta.) stated that the 46 metres (150.91 feet) of Schedule "A", "B" and "C" lands that it requires would be utilized as follows:

- (a) 3.6 metres (11.81 feet) for the ditch to accommodate the pipe;
- (b) 7.6 metres (24.93 feet) on which to place subsoil removed from the ditch during construction, and any maintenance of the pipeline;
- (c) 3.6 metres (11.81 feet) in order to facilitate preservation of topsoil removed from the ditch during construction and any maintenance of the pipeline;
- (d) 10.0 metres (32.81 feet) in order to facilitate preservation and storage of additional topsoil and/or storage of additional subsoil removed from portions of the right-of-way and Additional Lands during the construction of the pipeline;
- (e) 6.0 metres (19.69 feet) for the operation of the lifting equipment and for the assembling, welding and inspection of the pipe prior to installation, and during construction and any maintenance of the pipeline;

- (f) 7.6 metres (24.93 feet) for the operation of lifting equipment engaged in the construction, and any maintenance of the pipeline; and
- (g) 7.6 metres (24.93 feet) to allow for the passage of vehicles and other machinery during construction, and any maintenance of the pipeline.

#### 56 Metre Right-of-Way (Figure 2)

Foothills (Alta.) stated that 56 metres (183.72 feet) of Schedule "A", "B" and "C" lands that it requires would be utilized as follows:

- (a) 3.6 metres (11.81 feet) for the ditch to accommodate the pipe;
- (b) 7.6 metres (24.93 feet) on which to place subsoil removed from the ditch during construction, and any maintenance of the pipeline;
- (c) 3.6 metres (11.81 feet) in order to facilitate preservation of topsoil removed from the ditch during construction, and any maintenance of the pipeline;
- (d) 20.0 metres (65.62 feet) in order to facilitate preservation and storage of additional topsoil and/or storage of additional subsoil removed from portions of the right-of-way and Additional Lands during construction of the pipeline;
- (e) 6.0 metres (19.69 feet) for the operation of the lifting equipment and for the assembling, welding and inspection of the pipe prior to installation, and during construction and any maintenance of the pipeline;

- (f) 7.6 metres (24.93 feet) for the operation of lifting equipment engaged in the construction, and any maintenance of the pipeline; and
- (g) 7.6 metres (24.93 feet) to allow for the passage of vehicles and other machinery during construction, and any maintenance of the pipeline.

Foothills (Alta.) stated that it has adopted a pipeline corridor concept for the location of its pipeline which has substantially reduced its overall land requirements. Foothills (Alta.) further stated that, where possible, it has located its pipeline immediately adjacent to the right-of-way of NOVA and proposes to use up to a maximum of 7.132 metres (23.40 feet) of the NOVA right-of-way for permanent working space.

Foothills (Alta.) entered evidence of having duly served, with certain exceptions, all parties affected by its applications with a copy of the Notice of Hearing as required by Order No. NP-MH-6-81<sup>(6)</sup>, dated the 25th day of September, 1981.

The aforementioned exceptions to service were resolved at the hearing, excluding the lack of service on Edward Leo Keim. Foothills (Alta.) subsequently filed, with the Agency, a document dated the 2nd day of December, 1981, wherein the said Edward Leo Keim waived his right to have received twenty-one (21) days notice of the hearing, and his right to have been present or represented at the hearing.

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(6) See Appendix IV.

QUESTIONS OF Foothills (Alta.) EVIDENCE

Mr. Paul Jenson, appearing on behalf of a group of landowners, questioned Foothills (Alta.) about the frequency of contact between landowners and the company during construction and whether or not the use of "patrolmen" might be beneficial to both parties. He noted that Foothills Pipe Lines (Sask.) Ltd. had made use of such a person during its construction program. Foothills (Alta.) replied that this arrangement had been made to deal with a site specific problem, and the person referred to had been an employee of Foothills Pipe Lines (Sask.) Ltd., assigned the responsibilities of overseeing the movement of livestock in the area of construction.

Mr. Jenson questioned Foothills (Alta.) about its experiences with soil compaction and the effects of berming over the pipeline, as well as the probability of line breaks and the company's emergency procedures. He also questioned the depth of burial of the pipe and the safety standards employed by Foothills (Alta.), as well as the nature and frequency of repairs to the pipeline. Foothills (Alta.) responded by stating that it was its intention to have 48 inches of cover over the line in all areas capable of being cultivated, and that guidelines and stringent requirements were in place in the form of the Agency's "Northern Pipeline Socio-Economic and Environmental Terms and Conditions for the Province of Alberta", the company's "Environmental Plans and Procedures Manual" and the company's "Emergency Procedures Manual".

Mr. Jenson also questioned Foothills (Alta.) about its anticipated clearing schedule and if winter clearing was feasible.

Mr. Jenson's final questions related to the percentage of the total construction costs that were attributable to land costs. He further

questioned the company's policy of paying more for the use of temporary storage and stockpile sites than it was offering for the use of temporary working space.

Mrs. Sandra Vavrek, appearing on her own behalf, questioned Foothills (Alta.) about the amount and width of topsoil stripping, and its emergency procedures in the event of a line break. The company answered both of these questions at length.

Mr. J. Stewart Fisher, appearing on behalf of Unifarm, questioned Foothills (Alta.) about the need for the width of right-of-way required for this pipeline and made comparisons with the widths of right-of-way acquired on the 'Eastern' and 'Western' Legs.

Mr. Fisher questioned whether Foothills (Alta.) had carried out any studies or tests on construction methods or land reclamation techniques to be employed for such a large diameter pipeline.

Mr. Fisher also asked if Foothills (Alta.) would require the use of temporary working space for any future maintenance operations or in the event of a line break.

Mr. Alois Feys, appearing on his own behalf, suggested that Foothills (Alta.) may need more land than applied for in the vicinity of crossings of roads or other utilities. Foothills (Alta.) replied that through the use of specialized construction techniques the lands applied for in its applications would be sufficient.

Mr. Bernard B. Bystrom, appearing on his own behalf, questioned whether Foothills (Alta.) would be using new construction methods on this large diameter pipeline. He was concerned about the larger equipment causing more compaction and mixing of soils. He also questioned why the

compensation rates for the temporary and permanent working spaces differ, when the extent of damage and the reclamation procedures would be the same.

Mr. Bystrom also asked how long the temporary working space would be required. He was informed that it has been the Agency's policy to set an expiry date compatible with the anticipated construction and reclamation schedules.

Mr. Herman Korver, appearing on behalf of Revrok Farms Ltd., questioned Foothills (Alta.) on soil compaction and crop yield losses. He also voiced his concerns about the company not stripping the top soil across the entire width of the right-of-way.

Ms. Martha Kostuch, appearing as a concerned private citizen, questioned Foothills (Alta.) methods of winter stripping of topsoil and its expertise in soils reclamation. She then asked what was the likelihood of yet another pipeline being constructed adjacent to this pipeline.

The Agency questioned Foothills (Alta.) on its reasons for making these applications so far in advance of construction and asked if it might not be better to use the extra time to negotiate with the owners. Foothills (Alta.) replied that, at the time it made the applications, it was anticipated that construction would commence in the summer of 1982 and, even with the current delay in construction, there is always the possibility that the schedule could be advanced. Foothills (Alta.) also pointed out that approval of its applications would only grant it the right, if required, to proceed to take land without the consent of the owner and that it is the company's intent to continue to negotiate with the owners.

GENERAL SUBMISSIONS

Mr. Charles Wood, a member of Treaty No. 6, was recognized and requested that the "Statement of the Indian Association of Alberta" be introduced into the record and that it be declared relevant to the hearing. The Statement was recorded as "EXHIBIT NO. 47" with the proviso that the Agency would determine its relevance to these proceedings.

Mr. J. Stewart Fisher filed, as "EXHIBIT NO. 48", a copy of Unifarm's submission, and called as a witness Mr. Joe Marshall, Members Services, Unifarm.

It was Unifarm's position that the Agency should delay any decision on this hearing until after the passage of Bill C-60, which Unifarm advised was imminent. In support of this, Unifarm filed, as "EXHIBIT NO. 49", a copy of a letter dated August 7, 1981 from The Honourable Marc Lalonde, Minister of Energy, Mines and Resources, addressed to David Kirk of The Canadian Federation of Agriculture, which was read into the record by Mr. Marshall.

Mr. Paul Jenson filed, as "EXHIBITS NO. 50, NO. 50A and NO. 50B", a copy of a submission together with two listings of signatures of affected owners and other interested parties, on whose behalf the submission was filed. Mr. Jenson then called various landowners to comment on their submission.

The first point of contention was that the temporary working space would be used to the same extent as the permanent right-of-way, thereby causing the same amount of soil compaction, disruption and reduction in crop yields. They therefore felt that it should be acquired and compensated for in the same manner as the permanent working space.

The second point related to fencing to prevent livestock from straying and the ability of owners to have access across the right-of-way during construction.

The third point related to the timing and method of clearing and the replacement of shelter belts.

The fourth and fifth points were requests to have the entire right-of-way stripped of topsoil to a standard depth of at least eight inches, and to remove the displaced subsoils from the ditch to locations designated by the owners.

The sixth point related to the preservation of existing water sources and natural drainage patterns.

The seventh point related to reclamation procedures and requests for deep tillage, rock-picking and fertilization.

The eighth point was a request for deeper burial to allow for 48 inches of cover over the entire length of the pipeline, and for surface structures to be located so as to minimize inconvenience to the landowners.

The ninth point was a request that Foothills (Alta.) provide, at its expense, patrolmen to be selected by the landowners group, to look after landowners' interests during construction and reclamation activities.

The last point of their brief was a recommendation to delay the negotiation of final damage releases for a period of five years beyond the completion of construction.

Mr. J. Stewart Fisher filed a submission on behalf of Mr. Bernard B. Bystrom, landowner, which was recorded as "EXHIBIT NO. 51". Mr. Bystrom's concerns related to the imminent passing of Bill C-60 and the more expeditious proceedings he felt would be available under the new legislation.

VIEWS OF THE DESIGNATED OFFICER

At the opening of the hearing in Rocky Mountain House I said "I am therefore anxious to provide all persons whose lands Foothills wishes to take, without their consent, the fullest opportunity to address themselves to the question which I must answer in this hearing. The question is set out in subsection 74(1) of the N.E.B. Act, and it is whether the land sought to be taken without the consent of the owners is required for the efficient construction, maintenance and operation of a pipeline".

The evidence presented by Foothills (Alta.) to support its request for additional lands demonstrated a need for the additional lands. Indeed, no opposition was expressed by any affected owner in respect of Foothills (Alta.)'s need for the additional lands. The use of an overlapping right-of-way with NOVA by Foothills (Alta.) as permanent working space is, in my opinion, a responsible and efficient method of reducing the combined width of right-of-way and will reduce the total new land area which would otherwise be used during pipeline construction. I therefore conclude that Foothills (Alta.) requires the additional lands requested in these applications for the efficient construction, maintenance and operation of its proposed pipeline.

However, having reached the conclusion expressed in the preceding paragraph, there still remains the question of the time at which I should issue my orders expressing my approval for the taking of the additional lands, and the question of what conditions I should attach to those orders. It is clear that almost all of the participation of the affected owners during the hearing, both in the form of their evidence and their questions, was directed at these two questions.

With respect to timing, I note the relationship of this question to the anticipated passage of Bill C-60 by Parliament. The company entered its amended policy statement (EXHIBIT NO. 45A) in order to remove any suggestion of impropriety relating to the timing of its applications. I find that the company's amended policy statement achieves that objective.

I would point out that the approval of these applications is only one of a number of approvals which the company must obtain from me prior to obtaining the interest required in the owners' lands. I therefore see no reason not to approve these applications at this time.

With regard to other issues raised during the hearing, I recognize the concerns expressed by the owners, and by Unifarm, and I agree they must be met by the company. These concerns were anticipated and have arisen in the construction of other pipelines as well as the earlier construction of this pipeline project.

Several years ago, the Northern Pipeline Agency undertook an extensive review of these matters and entered into consultation with provincial and federal government departments, environmental groups and numerous associations during the stages which led up to the final approval of the Northern Pipeline Socio-Economic and Environmental Terms and Conditions for the Province of Alberta on July 3, 1980. Moreover, the company was required to develop an Environmental Plans and Procedures Manual for the Agency's approval. I have concluded after examination of the said Terms and Conditions and the said Manual that the matters raised during the hearing are adequately covered therein.

For example, the owners' concerns about access across, and fencing of, the right-of-way are addressed in the said Manual which provides that the company will arrange for such crossovers at the owners' request.

Temporary fencing is one of the many items to be discussed by the company's landmen with the owners prior to the commencement of the construction. These owners' requests are to be shown on the "line list" which is then turned over to those in charge of construction as well as the Agency's field surveillance personnel. Concerns such as clearing, top soil conservation and land reclamation are addressed in sections 80 to 86 and section 116 of the Northern Pipeline Socio-Economic and Environmental Terms and Conditions for the Province of Alberta. Foothills (Alta.) is, by law, obliged to meet the aforesaid requirements, and any further reference to these requirements as terms and conditions to my orders, authorizing the taking of these additional lands, would add nothing to the obligations that the company is already required to meet.

However, I wish to add at this point, by way of emphasis, that in my capacity as Deputy Administrator of the Northern Pipeline Agency, I intend to draw to the attention of the Agency's field surveillance inspectors' the matters raised by the affected owners in order that the legal requirements imposed upon the company, its contractors and its agents are diligently enforced during construction. I recognize that the Agency's field staff cannot be everywhere at all times. Therefore, I consider it to be important that, when owners become aware that their concerns are not being met, they should be drawn to the Agency's attention as soon as possible, either by contact with the Agency's field personnel or directly with its officers in Calgary.

With regard to the owners' position that winter clearing take place, I note that Foothills (Alta.) agreed to do so, where possible. I further note that the company intends to provide 48 inches of cover over its pipeline in all areas capable of being cultivated.

The legal, and responsibility/authority aspects, of the patrolmen, as suggested by the landowners' group are, in my opinion, not at all clear and, in any event, the tasks proposed to be undertaken by the patrolmen are currently performed by the company's inspectors and landmen, or by the Agency's field surveillance and inspection staff.

Most of the other concerns expressed related to matters of compensation for land rights and damages, which are beyond the scope of this hearing and my authority. In this connection, I find that Foothills (Alta.) demonstrated, to my satisfaction, that the use of the temporary working space is indeed of a temporary nature and is required during mainline construction only. Once again, owners' concerns with respect to temporary working space seemed to be centered on the matter of compensation and this is not mine to determine.

In his closing arguments for the Applicant, Mr. Petch, requested that any orders that I might issue be made effective as of the date of the hearing, November 5, 1981. I have considered that request and I have concluded that to do so might mean that a person who purchased one of the subject tracts of land between the date of the hearing and the date of making the order pertaining to such tract would not have had an opportunity to be heard in the matter. This does not seem to me to be appropriate in these circumstances and is not in keeping with my opening statement during the hearing as set out in the beginning of these my views. Accordingly, I have not accepted the request and all orders are effective on the date of issue.

I therefore conclude that -

- (i) the company requires the additional lands requested in these applications for the efficient construction, maintenance and operation of this pipeline;

- (ii) it is appropriate to issue authorizations to take these lands at this time;
- (iii) the company undertook to meet some of the concerns raised by the landowners; and
- (iv) there are already provisions, as previously noted, which obligate the company to meet any proper concerns expressed by the landowners and that these are within my authority to require.

DECISION

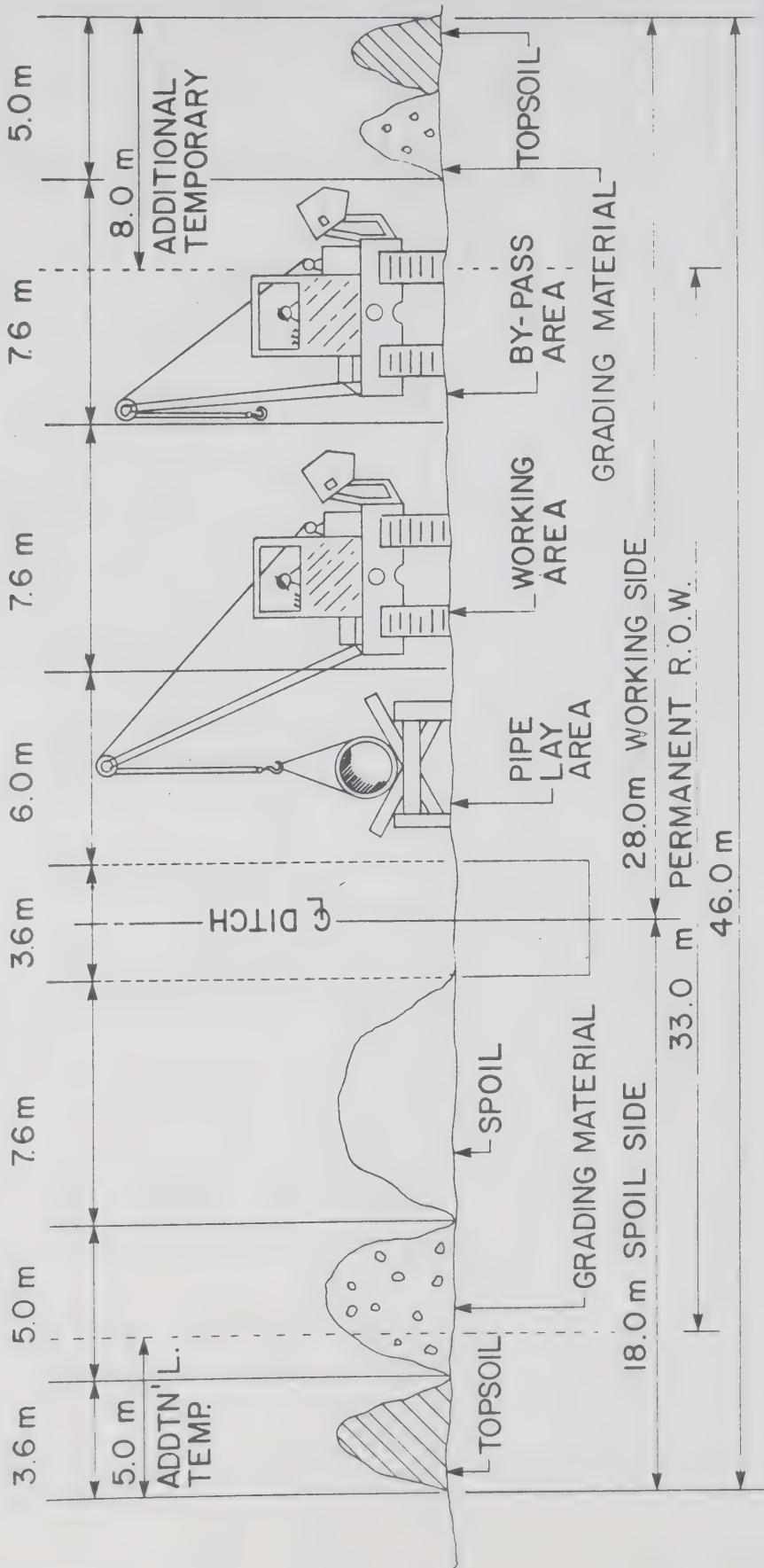
Having considered the evidence and argument presented to me with respect to the two applications of Foothills (Alta.) for leave to take additional lands and having taken into account all matters that appear to me to be relevant, I am satisfied that granting permission to Foothills (Alta.) to take the additional lands requested is necessary for the efficient construction, maintenance and operation of its proposed pipeline. I therefore have issued orders authorizing the taking of such lands.



W.A. Scotland  
Designated Officer  
Northern Pipeline Agency

Calgary, Alberta January 19, 1982

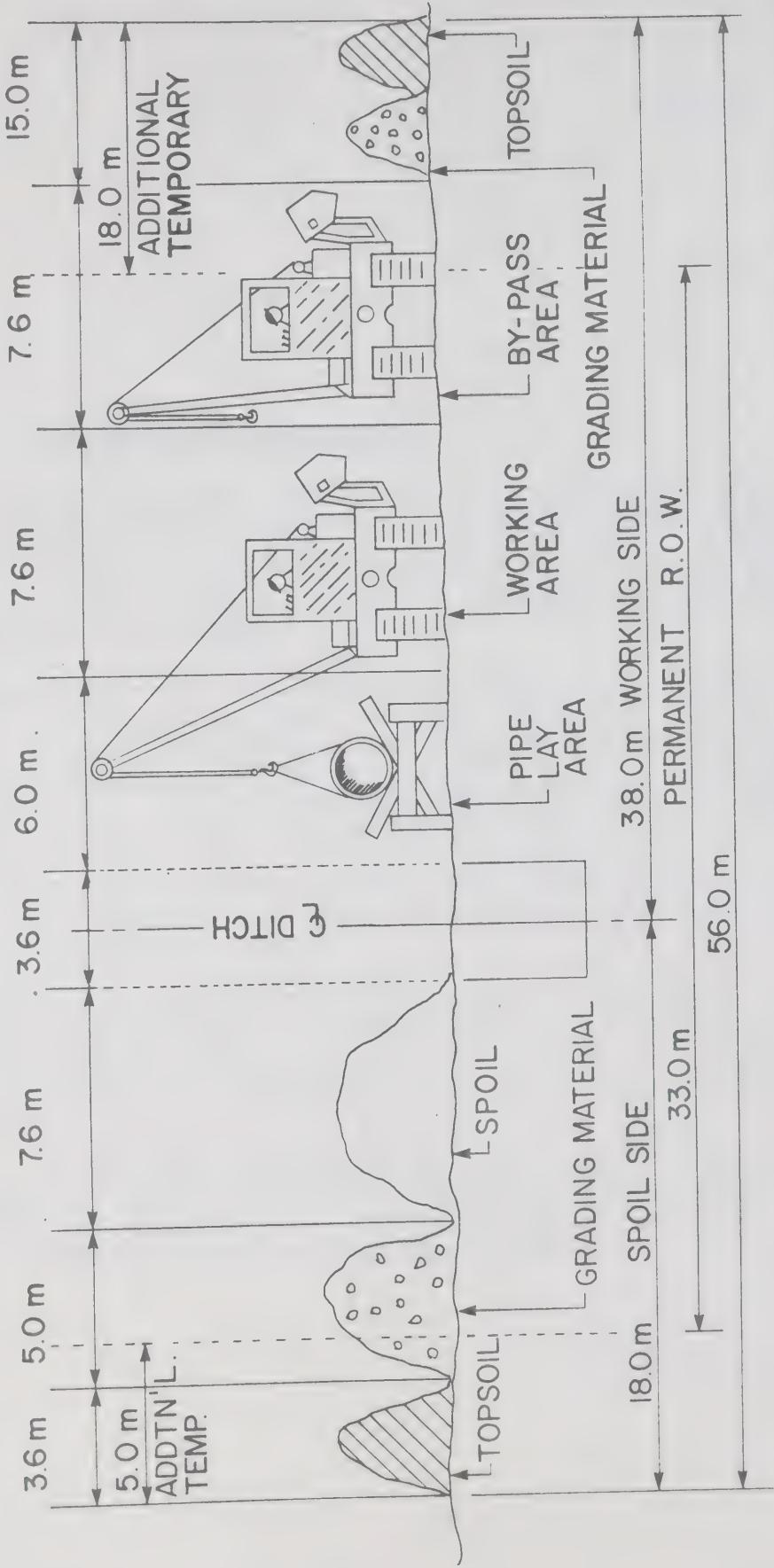
**RIGHT OF WAY CONFIGURATION (46.0m)  
FOR 1422 mm NORTHERN LEG  
LIGHT GRADING**



**RIGHT OF WAY CONFIGURATION  
NORTHERN LEG  
A.H.G.P.-62**



# RIGHT OF WAY CONFIGURATION (56.0m) FOR 1422 mm NORTHERN LEG HEAVY GRADING



RIGHT OF WAY CONFIGURATION  
NORTHERN LEG  
A.H.G.P.P.- 63



SECTION 74 OF THE NATIONAL ENERGY BOARD ACT

74.(1) Where a company at any time requires more ample space than it possesses or may take under section 73, for the efficient construction, maintenance or operation of a pipeline or for constructing or taking any works or measures ordered by the Board, it may apply to the Board for authority to take, without the consent of the owner, the additional lands required for such purposes.

(2) The Board shall set a time for the hearing of the application which shall be sufficient to permit at least twenty-one days notice thereof to be given by the company to the owners or possessors of the additional lands required, and the company shall give notice thereof accordingly and shall, upon such hearing, furnish to the Board copies of such notices, with affidavits of the service thereof.

(3) The company, upon the application, shall also furnish to the Board such plans, profiles and books of reference and additional information as the Board may require.

(4) After the time stated in such notices, and the hearing of such parties interested as may appear, the Board may, in its discretion and upon such terms and conditions as it deems expedient, authorize in writing the taking for the said purposes of the whole or any portion of the lands applied for.

(5) Copies of the authorization of the Board and of the plan, profile and book of reference, certified as such by the Secretary of the Board shall be deposited with the registrars of deeds of the districts or counties in which the lands are situated.



NATIONAL ENERGY BOARD



OFFICE NATIONAL DE L'ÉNERGIE

ORDER NO. NPO-1-78

IN THE MATTER OF the Northern Pipeline  
Act; and

IN THE MATTER OF the delegation by the  
National Energy Board of certain of its  
powers, duties and functions under the  
National Energy Board Act, pursuant to  
subsection 6(1) of the Northern Pipeline  
Act.

B E F O R E the Board on Thursday, the 27th day of July, 1978.

WHEREAS the Governor in Council having, by Order in Council P.C. 1978-1631, dated the 11th day of May, 1978, and pursuant to subsection 5(4) of the Northern Pipeline Act, designated William Alexander Scotland, an Associate Vice-Chairman of the Board, as a deputy to the Administrator of the Northern Pipeline Agency, effective the 15th day of May, 1978;

AND WHEREAS William Alexander Scotland, as a deputy to the said Administrator, is the "designated officer" within the meaning of subsection 2(1) of the Northern Pipeline Act;

AND WHEREAS the National Energy Board may, by order, in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act, delegate to the designated officer certain of the powers, duties and functions of the Board under the National Energy Board Act, as more particularly set forth in subsection 6(1) of the Northern Pipeline Act;

AND WHEREAS the National Energy Board considers it necessary and desirable to delegate to the designated officer certain of its powers, duties and functions under the National Energy Board Act in respect to the pipeline referred to in subsection 2(1) of the Northern Pipeline Act;

1. IT IS ORDERED THAT the powers, duties and functions of the National Energy Board under the following provisions of the National Energy Board Act, namely:

subsections 29(2) and 29(4)  
subsection 32(2)  
section 35

- 2 -

subsections 36(2) and 36(3)

section 37

section 68

section 74

section 76

section 77

be and the same are hereby delegated to the designated officer, solely in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act.

2. AND IT IS FURTHER ORDERED THAT, for the purpose only of exercising and performing the powers, duties and functions of the Board set forth in paragraph 1 of this Order in respect of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act, the powers of the National Energy Board under the following provisions of the National Energy Board Act, namely:

subparagraphs 7(a) and 7(b)

subsection 10(3)

section 11

section 12

subsection 14(2)

section 16

subsection 17(1)

subsection 20(3)

be and the same are hereby delegated to the designated officer.

3. AND IT IS FURTHER ORDERED THAT the delegation by the Board of its powers, duties and functions as set out in paragraphs 1 and 2 hereof, shall be effective on the 27th day of July, 1978, in respect of the whole of the pipeline referred to in subsection 2(1) of the Northern Pipeline Act, and shall terminate in respect of each section of the said pipeline on the day on which the Board grants leave to open, pursuant to section 38 of the National Energy Board Act, for each such section of the said pipeline.

NATIONAL ENERGY BOARD  
CANADA

SWORN AND CERTIFIED TO BE A TRUE COPY  
OF AN ORDER OF THE NATIONAL ENERGY  
BOARD. AT - 9 1980  
BATCH

NATIONAL ENERGY BOARD

B.H. Whittle  
SECRETARY, NATIONAL ENERGY  
BOARD, OTTAWA, CANADA

Brian H. Whittle  
Secretary

FOOTHILLS PIPE LINES (YUKON) LTD.

POLICY STATEMENT

Re: BILL C-60

AND THE LANDOWNERS ON THE ROUTE OF 56 INCH

PILOT SPREAD

Bill C-60, an act to amend the National Energy Board Act, has been under consideration by the House of Commons and the Senate and may be proclaimed into law in the near future. The Bill, when law, is expected to provide landowners with the option of taking compensation as a lump sum, a periodic payment or an annual payment. The Bill is also expected to replace the present expropriation procedure under The Railway Act with, as it relates to compensation, a new arbitration procedure.

It is further noted, that because of the timing of the Bill becoming law, landowners on the route of the 56 inch Pilot Spread could tend to receive varying compensation for land value or be offered different compensation options under the old and new procedures.

The Company has previously stated its intention to treat in the same manner all landowners on a particular project section. In order that all landowners on the route of the 56 inch Pilot Spread be treated equitably, the Company intends that should Bill C-60 be proclaimed prior to completion of Phase 2 of the Alaska Highway Gas Pipeline Project:

- (a) Any landowner whose lands have been taken for the 56 inch Pilot Spread of the Alaska

Highway Gas Pipeline Project who has signed an easement prior to Bill C-60 becoming law will be offered the option of taking annual or periodic payments determined in accordance with Bill C-60 in lieu of the lump sum payment for land value accepted under the easement. Such offered option will take into account, in full, all monies already paid to such land-owner.

(b) Any landowner whose lands have been taken for the 56 inch Pilot Spread of the Alaska Highway Gas Pipeline Project and who has been compensated for such taking by way of easement or pursuant to the provisions of the Railway Act shall be entitled to receive any increase in the compensation paid for land values of comparable lands within the 56 inch Pilot Spread under the new arbitration procedure of Bill C-60, adjusted to the date of taking, should any such procedure result in a higher award to any land-owner of comparable lands within the 56 inch Pilot Spread.

Through the above statement of intent, it is the Company's desire to offer to the landowners on the route of the 56 inch Pilot Spread the same options as to land value compensation and the same

compensation for land value as they would have if their lands were to be taken after Bill C-60 became law.

FOOTHILLS PIPE LINES (YUKON) LTD.

Per: 

M. L. PETERSON

Vice-President, Construction



NATIONAL ENERGY BOARD



OFFICE NATIONAL DE L'ÉNERGIE

ORDER NO. NP-MH-6-81

IN THE MATTER OF the National Energy Board Act  
and the Regulations made thereunder; and

IN THE MATTER OF the Northern Pipeline Act;  
and

IN THE MATTER OF two (2) applications, as  
amended, made by Foothills Pipe Lines (Alta.)  
Ltd. (hereinafter called the "Applicant") for  
authority to take, without the consent of the  
owners, certain additional lands required for  
the construction, maintenance and operation of  
the pipeline of the Applicant pursuant to the  
provisions of section 74 of the National  
Energy Board Act; and

IN THE MATTER OF Order No. NPO-1-78, dated the  
27th day of July, 1978, made by the National  
Energy Board pursuant to the provisions of  
subsection 6(1) of the Northern Pipeline Act,  
whereby the Board did delegate to William  
Alexander Scotland as Designated Officer,  
Northern Pipeline Agency, certain of its  
powers, duties and functions under the  
National Energy Board Act, including those  
derived under section 74 of the said Act, in  
respect of the pipeline referred to in  
subsection 2(1) of the Northern Pipeline Act.

Agency Files No. 8258 and No. 8259.

B E F O R E the Designated Officer on Friday, the 25th day of  
September, 1981.

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UPON reading the applications, both dated the 17th day of August, 1981, as amended, made by the Applicant:

IT IS ORDERED THAT

1. The amended applications will be heard in the Royal Canadian Legion, Veterans Hall, located at 4914 - 49th Street, in the Town of Rocky Mountain House, in the Province of Alberta, on the 5th day of November, 1981, commencing at the hour of 9:30 A.M. local time.
2. Notice of the hearing in the form prescribed by the Designated Officer, Northern Pipeline Agency, as set forth in the Notice attached to and which forms part of this Order shall be published not later than the 14th day of October, 1981, in one issue each of the "Red Deer Advocate", in the City of Red Deer, and the "Mountaineer", in the Town of Rocky Mountain House, both in the Province of Alberta, and as soon as possible in the "Canada Gazette".
3. Notice of the hearing shall forthwith be given by the Applicant, by service of a true copy of this Order and of the amended applications filed, upon the Attorney General of the Province of Alberta, the Canadian Federation of Agriculture (at 111 Sparks Street, Ottawa, Ontario), Unifarm (at 9934-106th Street, Edmonton, Alberta) and the owners or possessors of the additional lands required, not less than twenty-one (21) days prior to the date set down for the hearing, and the Applicant shall, upon such hearing, furnish to the Designated Officer, Northern Pipeline Agency, copies of such notices with the affidavits of the service thereof.
4. Any respondent or intervenor intending to oppose or intervene in the amended applications shall file, on or before the 28th day of October, 1981, with the Designated Officer, Northern Pipeline Agency, four (4) copies of a written statement containing his/her reply or

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submission, together with any supporting information, particulars or documents, which shall contain a concise statement of the facts from which the nature of the respondent's or intervenor's interest in the proceedings may be determined, which may admit or deny any or all of the facts alleged in the amended applications, and which shall be endorsed with the name and address of the respondent or intervenor or his/her solicitor to whom communications may be sent. Any respondent or intervenor shall, in addition, serve three (3) copies of his/her reply or submission and supporting information, particulars or documents, upon the Applicant and one (1) copy each upon the Attorney General of the Province of Alberta, the Canadian Federation of Agriculture (at 111 Sparks Street, Ottawa, Ontario) and Unifarm (at 9934-106th Street, Edmonton, Alberta).

5. Any interested party may examine a copy of the amended applications and the submissions filed therewith at the office of:

Northern Pipeline Agency  
4th Floor - Shell Centre  
400 Fourth Avenue South West  
Calgary, Alberta T2P 0J4

or at the office of the Applicant's Agent, the Alaska Project Division of NOVA, AN ALBERTA CORPORATION, now Foothills Pipe Lines (Yukon) Ltd:

Foothills Pipe Lines (Yukon) Ltd.  
P.O. Box 2511  
104 Fourth Avenue South East  
Calgary, Alberta T2P 2M7  
(Please contact D.T. Rigby,  
Supervisor, Regulatory Affairs).

Dated at the City of Calgary, in the Province of Alberta, this 25th day of September, 1981.

NATIONAL ENERGY BOARD



W.A. Scotland

NP-MH-6-81

NATIONAL ENERGY BOARD  
NOTICE OF HEARING

TAKE NOTICE that pursuant to the National Energy Board Act and the Regulations made thereunder, the Designated Officer, Northern Pipeline Agency, has ordered a hearing to be held in the Royal Canadian Legion, Veterans Hall, located at 4914 - 49th Street, in the Town of Rocky Mountain House, in the Province of Alberta, on the 5th day of November, 1981, commencing at the hour of 9:30 A.M. local time, to hear two applications, as amended; of Foothills Pipe Lines (Alta.) Ltd. (hereinafter called the "Applicant") for leave to take, without the consent of the owners, certain additional lands pursuant to the provisions of section 74 of the Act, consisting of,

- (a) "Additional Right-of-Way", containing by admeasurement approximately 38.2 hectares (about 94.4 acres),
- (b) "Permanent Working Space", containing by admeasurement approximately 21.0 hectares (about 52.0 acres), and
- (c) "Temporary Working Space", containing by admeasurement approximately 61.7 hectares (about 152.4 acres),

in an area commencing at a point in the north boundary of the North West Quarter of Section 7, Township 40, Range 6, which said point is located approximately 8.4 kilometres (5.2 miles) northeast of the Town of Rocky Mountain House, and extending in a generally southerly direction to a point in the south boundary of the North East Quarter of Section 26, Township 34, Range 6, which said point is located approximately 3.7 kilometres (2.3 miles) north of the James River, all West of the 5th Meridian, in the Province of Alberta, required for the efficient construction, maintenance and operation of the pipeline

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referred to in subsection 2(1) of the Northern Pipeline Act and as more particularly described in the said amended applications.

AND THE DESIGNATED OFFICER, NORTHERN PIPELINE AGENCY, HAS FURTHER ORDERED THAT:

1. Any respondent or intervenor intending to oppose or intervene in the amended applications shall file, on or before the 28th day of October, 1981, with the Designated Officer, Northern Pipeline Agency, four (4) copies of a written statement containing his/her reply or submission, together with any supporting information, particulars or documents, which shall contain a concise statement of the facts from which the nature of the respondent's or intervenor's interest in the proceedings may be determined, which may admit or deny any or all of the facts alleged in the amended applications, and which shall be endorsed with the name and address of the respondent or intervenor or his/her solicitor to whom communications may be sent. Any respondent or intervenor shall, in addition, serve three (3) copies of his/her reply or submission and supporting information, particulars or documents, upon the Applicant and one (1) copy each upon the Attorney General of the Province of Alberta, the Canadian Federation of Agriculture (at 111 Sparks Street, Ottawa, Ontario) and Unifarm (at 9934 - 106th Street, Edmonton, Alberta).
2. Any interested party may examine a copy of the amended applications and the submissions filed therewith at the office of:

Northern Pipeline Agency  
4th Floor - Shell Centre  
400 Fourth Avenue South West  
Calgary, Alberta  
T2P 0J4

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or at the office of the Applicant's Agent, formerly the Alaska Project Division of NOVA, AN ALBERTA CORPORATION, now Foothills Pipe Lines (Yukon) Ltd.:

Foothills Pipe Lines (Yukon) Ltd.  
P.O. Box 2511  
104 Fourth Avenue South East  
Calgary, Alberta  
T2P 2M7  
(Please contact D.T. Rigby  
Supervisor, Regulatory Affairs).

DATED at the City of Calgary, in the Province of Alberta, this 25th day of September, 1981.

NATIONAL ENERGY BOARD

"W. A. Scotland"  
W. A. Scotland  
Designated Officer,  
Northern Pipeline Agency.



